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COURT RULING SETS STAGE FOR CONGRESS TO ACT ON CMS MORATORIUM

The U.S. District Court for the District of Columbia has issued its ruling on a lawsuit filed against the Centers for Medicare and Medicaid Services (CMS). The suit was filed in March of 2008 by an Oakland, California area hospital and several national hospital associations. Its outcome had a potentially significant impact on public hospitals across the country, including the University of Kansas Hospital. The Kansas Health Policy Authority (KHPA) participated in the lawsuit with several other states by filing an amicus, or “friend of the court”, brief in the case supporting the position of the plaintiffs.

According to the American Hospital Association, the lawsuit, entitled *Alameda County Medical Center et al. v. The Honorable Michael O. Leavitt, in his official capacity as Secretary, Department of Health and Human Services, et al.*, was filed to prevent CMS from implementing a Medicaid regulation that would cut some \$5 billion in federal funding by restricting how states fund their Medicaid programs and pay public hospitals such as the University of Kansas Hospital. The CMS cuts would have cost the state of Kansas at least \$19 million per year. CMS will have to re-issue the regulation to comply with the procedural portion of the court’s ruling.

KHPA Deputy Director Dr. Andrew Allison noted, “The CMS cuts would have significantly reduced federal funding to public hospitals in Kansas and across the country, making it much more difficult for them to serve their neediest consumers. The main purpose of the regulation was to shift the costs of serving the uninsured back onto states, but states are in no position to absorb those costs.”

On May 24, 2007, Congress instituted a moratorium on the public hospital regulation and several other proposed Medicaid cuts. The Court held that CMS filed its proposed rule changes after the moratorium had taken effect. In spite of the Court’s ruling, the moratorium will expire unless Congress takes action to extend it, which would leave the nation’s health care providers in the same position as before the Court’s ruling.

To view the CMS lawsuit in its entirety, please visit the American Hospitals Association website at:
<http://www.aha.org/aha/issues/Medicaid/080311-alameda-v-leavitt.html>

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